

Pages 1 - 10

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Susan Illston, Judge

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
VS.)	NO. CR 18-CR-483-SI-2
)	
JOSE SOTOMAYOR,)	
)	
Defendant.)	
_____)	

San Francisco, California
Friday, February 23, 2024

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

For Plaintiff:

ISMAIL J. RAMSEY
UNITED STATES ATTORNEY
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San Francisco, California 94102
BY: MARJA-LIISA OVERBECK
ASSISTANT UNITED STATES ATTORNEY

For Defendant:

SUGARMAN & CANNON
600 Harrison Street, Ste. 535
San Francisco, CA 94107
BY: CHRISTOPHER J. CANNON
ATTORNEY AT LAW

Reported By: Jennifer Coulthard, CSR No. 14457, RMR, CRR, FCRR
Official U.S. District Court Stenographer

Friday - February 23, 2024

11:45 a.m.

P R O C E E D I N G S

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THE CLERK: Now calling criminal matter 18-CR-483, USA
versus José Sotomayor.

Counsel, please state your appearances for the record
starting with the Government.

MS. OVERBECK: Good morning, Your Honor; Marja
Overbeck for the United States.

THE COURT: Good morning.

MR. CANNON: Good morning, Your Honor; Christopher
Cannon on behalf of José Sotomayor, who's present in custody.

THE COURT: Good morning and good morning, sir.

PROBATION OFFICER: Good morning. Anthony Cardenas
with the United States Probation.

THE COURT: Say again?

PROBATION OFFICER: Anthony Cardenas with the United
States Probation.

THE COURT: Good morning.

And the status is what, Mr. Cannon?

MR. CANNON: Mr. Sotomayor would admit that he was in
violation of the terms of his supervised release by being
outside the district in Modesto, California.

THE COURT: Okay. So Mr. Sotomayor, I understand you
would like to go ahead and admit. Which violation is that,

1 Mr. Cannon?

2 **MR. CANNON:** The second one, Your Honor.

3 **THE COURT:** The second one. Charge 2 of the
4 violations pending against you; is that right, sir?

5 Okay.

6 You would do understand that you have a right to a hearing
7 on these charges, and it would be up to the Government to call
8 witnesses to prove up these charges before you could be found
9 in violation of them. You understand that?

10 **THE COURT:** So you understand, sir, that you have a
11 right to a hearing on this matter?

12 **THE DEFENDANT:** Yes, Your Honor.

13 **THE COURT:** And is it true that you would just like to
14 skip that and go ahead and admit today?

15 **THE DEFENDANT:** Yes, Your Honor.

16 **THE COURT:** Okay. Esther, could you please swear
17 Mr. Sotomayor.

18 **THE CLERK:** Please raise your right hand.

19 (Defendant sworn.)

20 **THE DEFENDANT:** Yes, I do.

21 **THE COURT:** All right. Have you gone over these
22 charges with Mr. Cannon before today?

23 **THE DEFENDANT:** Yes, I have, Your Honor.

24 **THE COURT:** All right. And charge 2, which is the one
25 that you're about to plead to, charges that you knowingly left

1 the federal judicial district where you were authorized to
2 reside without first getting permission from the Court or the
3 probation officer and that you went to Modesto. Is that true,
4 sir?

5 **THE DEFENDANT:** Yes, Your Honor.

6 **THE COURT:** All right. Well, I do find that you
7 violated charge No. 2.

8 What will happen with 1?

9 **MS. OVERBECK:** Your Honor, we're requesting that you
10 take judicial notice of that charge at this time.

11 **THE COURT:** Okay. I take judicial notice of charge 1,
12 and now we will proceed to sentencing on this charge. And I
13 will understand from the defendant's memo that you are
14 recommending an 18-month sentence?

15 **MR. CANNON:** That's correct, Your Honor.

16 **THE COURT:** And the Government is recommending --

17 **MS. OVERBECK:** 18 months as well.

18 **THE COURT:** -- 18 months. And the probation officer
19 has recommended 18 months as well; is that right?

20 **PROBATION OFFICER:** Yes, Your Honor.

21 **THE COURT:** Okay. I'd be happy to hear from counsel.
22 Anything you want to add?

23 **MR. CANNON:** We would submit it, Your Honor. We would
24 just like to indicate that the sentencing memo that probation
25 submitted indicates that Mr. Sotomayor should get a three-year

1 term of supervised release.

2 **THE COURT:** Yes.

3 **MR. CANNON:** I believe that three-year term is then
4 reduced -- should be reduced by any period of custody, in this
5 case 18 months, so it would be -- so it would actually be a
6 18-month period of supervised release.

7 The Government indicated that the Court normally has the
8 Bureau of Prisons make that calculation, and I just want to
9 make sure that there's not a three-year term of supervised
10 release.

11 **THE COURT:** Is that right?

12 **MS. OVERBECK:** Your Honor, normally -- there's no
13 disagreement here that statutorily it would be three years less
14 any term of custody imposed upon revocation, so that's the
15 language that I'm familiar with the Court using in this
16 district. And then, yes, it is our belief that the BOP
17 calculates that accordingly, and so I don't know that Your
18 Honor needs to impose a specific month sentence as a result,
19 but certainly noting that it's three years less any time --
20 term of custody.

21 **THE COURT:** All right. Okay.

22 Mr. Sotomayor, did you want to say anything before I
23 sentence you?

24 **THE DEFENDANT:** Yeah. Dear, Your Honor, I stand here
25 in front of you once again to apologize and ask for

1 forgiveness. The mistakes that I have made have brought me
2 here once again, and all I can say is I'm very disappointed in
3 myself.

4 When released from prison I stayed on the right track for
5 two years straight. Being influenced and weak minded keeps
6 bringing me back here. I take full responsibility for all my
7 actions. Your Honor, this last five months being incarcerated
8 has been the hardest time that I've done ever, even harder than
9 when I was last sent to prison.

10 Before going to prison I had nothing, but this time around
11 I got to raise my second daughter. I taught her how to say "I
12 love you," how to use the bathroom and what unconditional love
13 and protection is from a dad. I got a chance to keep a
14 full-time job, have my own apartment for my family, my own car
15 and a great relationship with my parents, sister and nieces.
16 I've gained so much the last two years that it mentally and
17 physically broke me when I had to come into custody.

18 While being out I started a process to donate my kidney to
19 my ill mother so that she can have a chance to live a more
20 better life as she grows old, and now it's come to a hold.
21 She's currently on a 10-year waiting list. Now my mom has to
22 keep enduring her daily pain and dialysis until I'm home once
23 again.

24 During my two years in the Pennsylvania prison I've
25 learned to respect myself and others. Your Honor, I ask to

1 please have some leniency so that I can get back to being a
2 father, son, uncle, brother and an upstanding citizen.

3 I've dwelled on my mistakes and know that I need to
4 change. All I ask is for one more opportunity. Having my
5 daughter ask when I'm coming home kills me and brings tears to
6 my eyes and it's a pain I can't bear. I've already missed two
7 years of my daughter's life, and I can't miss anymore. Thank
8 you, Your Honor, and God bless.

9 **THE COURT:** Thank you, sir.

10 Based on Mr. Sotomayor's admission, it is -- the term of
11 his supervised release is hereby revoked and Mr. Sotomayor is
12 hereby sentenced to the custody of the BOP for a period of 18
13 months. Upon release from custody, Mr. Sotomayor shall be
14 placed on supervised release. The Court understands that that
15 will be a term of three years less the amount of the term of
16 Mr. Sotomayor's imprisonment.

17 While on supervised release, Mr. Sotomayor shall not
18 commit another federal, state or local crime, shall comply with
19 the standard conditions that have been adopted by this Court,
20 shall refrain from any unlawful use of a controlled substance
21 and submit to a drug test within 15 days of release on
22 supervised release and two periodic drug tests thereafter and
23 shall comply with the following additional special conditions:
24 You must participate in an outpatient program of testing and
25 treatment for drug abuse, as directed by the probation officer,

PROCEEDINGS

1 until such time as you are released from treatment by the
2 probation officer. You are to pay part or all the cost of this
3 treatment at an amount not to exceed the cost of treatment, as
4 determined appropriate by the probation officer. Payments must
5 never exceed the total cost of urinalysis and counseling. The
6 actual copayment schedule must be determined by the probation
7 officer.

8 You must not knowingly participate in gang activity, must
9 not associate with any member of the Norteño gang and must not
10 wear the clothing, colors or insignia of the Norteño gang.

11 You must not possess any false identification and must
12 provide your true identity at all times. You must not have any
13 contact with my codefendant in this case, namely Derek Holden.

14 You must submit your person, residence, office, vehicle,
15 electronic devices and their data, including cell phones,
16 computers and electronic storage media or any property under
17 your control to a search. Such a search must be conducted by a
18 U.S. Probation Officer or any federal, state or local law
19 enforcement officer, at any time with or without suspicion.

20 Failure to submit to such a search may be grounds for
21 revocation. You must warn any residents that the premises may
22 be subject to searches.

23 You must cooperate in the collection of DNA as directed by
24 the probation officer. You must abstain from the use of all
25 alcoholic beverages. You must comply with the rules and

1 regulations of the U.S. Immigration and Customs Enforcement
2 and, if deported, not enter the -- re-enter the United States
3 without the express consent of the Secretary of the Department
4 of Homeland Security. Upon any reentry into the U.S. during
5 the period of court ordered supervision, you must report to the
6 nearest U.S. Probation Office within 72 hours.

7 Is there anything else?

8 **MS. OVERBECK:** Your Honor, the Government would ask
9 for the defense on the record to state that he has had an
10 opportunity to review the standard conditions of supervision.
11 They are incorporated into U.S. Probation's memorandum, and we
12 just want to make sure that he's had the opportunity to review
13 those.

14 **THE COURT:** Mr. Sotomayor, did you go over the
15 standard conditions of supervision that were attached to the
16 report about you in this case?

17 **THE DEFENDANT:** Yes, Your Honor.

18 **THE COURT:** And you went over them with Mr. Cannon?

19 **THE DEFENDANT:** Yes, Your Honor.

20 **THE COURT:** Okay. Thank you, sir.

21 Anything else?

22 **MS. OVERBECK:** Not from the Government. Thank you,
23 Your Honor.

24 **THE COURT:** All right. Mr. Cannon, anything else?

25 **MR. CANNON:** No, Your Honor. Thank you.

PROCEEDINGS

1 **THE COURT:** Is there any request about where he goes?

2 **MR. CANNON:** Your Honor, at this point I believe he's
3 going to go into custody in Modesto, so at this point there is
4 no request.

5 **THE COURT:** Okay. All right. Well, good luck to you,
6 sir, and thank you to your family.

7 **THE DEFENDANT:** Thank you, Your Honor.

8 **THE COURT:** You're welcome.

9 **MS. OVERBECK:** Thank you.


10 **MR. CANNON:** Thank you, Your Honor.

11 (Concluded at 11:58 a.m.)

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14
15 **CERTIFICATE OF REPORTER**

16 I certify that the foregoing is a correct transcript
17 from the record of proceedings in the above-entitled matter.

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19
20 
21 JENNIFER L. COULTHARD, RMR, CRR
22 Official Court Reporter
23 CA CSR#14457
24
25

July 29, 2024
DATE